

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

**ROBERT BRADLEY SCOTT v. STATE OF TENNESSEE**

**Appeal from the Criminal Court for Knox County  
No. 91384     Mary B. Leibowitz, Judge**

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**No. E2009-01485-CCA-R3-HC - Filed December 9, 2009**

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The petitioner, Robert Bradley Scott, appeals from the order of the Knox County Criminal Court dismissing his petition for a writ of habeas corpus, and the State has moved this court to summarily affirm the criminal court's order pursuant to Rule 20 of the Tennessee Court of Criminal Appeals Rules. We agree with the State and affirm the criminal court's order.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed  
Pursuant to Rule 20, Rules of the Court of Criminal Appeals**

JAMES CURWOOD WITT, JR., J., delivered the opinion of the court, in which NORMA MCGEE OGLE and D. KELLY THOMAS, JR., JJ., joined.

Robert Bradley Scott, appellant, pro se.

Robert E. Cooper, Attorney General & Reporter; and Matthew Bryant Haskell, Assistant Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

In his petition for habeas corpus relief, the petitioner challenged his December 8, 2006 sentence of three years for a conviction of theft. The petition, filed on April 17, 2009, alleged that the petitioner had not received credit for post-judgment community corrections time and/or jail time and that, applying credits for time served, the three-year sentence would be expired. The criminal court dismissed the petition on May 6, 2009.

The writ of habeas corpus is not appropriate in this case. A writ of habeas corpus may be granted only when the petitioner has established a lack of jurisdiction for the order of confinement or that he is otherwise entitled to immediate release because of the expiration of his sentence. *See Ussery v. Avery*, 432 S.W.2d 656, 658 (Tenn. 1968); *State v. Galloway*, 45 Tenn. 326 (1868). The petitioner claims the latter basis for relief, arguing that proper application of post-judgment credits for the time he spent on community corrections and in jail pending revocation of his community corrections sentence would result in the expiration of his sentence. The petitioner's claim of sentence expiration must fail because his three year sentence, imposed on December 8,

2006, could not expire before December 8, 2009, even assuming the application of post-judgment credits. Thus, the only defacto claim that the petitioner could possibly be making is that he has reached his release eligibility date; however, the maturation of release eligibility does not equate to the expiration of a sentence. *See, e.g., Carl Ed Leming v. State*, No. 03C01-9603-CC-00119, slip op. at 3 (Tenn. Crim. App., Knoxville, Apr. 22, 1997) (“Release eligibility does not amount to an entitlement to immediate release.”).

For this reason, the criminal court’s order of dismissal is affirmed pursuant to this court’s Rule 20.

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JAMES CURWOOD WITT, JR., JUDGE